

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

LIZ FRECHEL RODRIGUEZ, et al.,

Plaintiffs,

v.

PUERTO RICO DEPARTMENT OF  
EDUCATION, et al.,

Defendants.

Civil No. 06-1095 (JAF)

**OPINION AND ORDER**

On March 22, 2007, we issued an Opinion and Order on Defendants' motion for judgment on the pleadings which dismissed various causes of action that were originally pleaded in this complaint by Plaintiffs Liz Frechel-Rodríguez ("Liz") and her daughter Shelsey Villalobos-Frechel ("Shelsey"). Docket Document No. 104. Others remained intact. Id. Liz and Shelsey allege that Shelsey was sexually harassed by Morales-Sánchez, a janitor at her grade school. Docket Document No. 1. As of today's writing, the following causes of action remain: (1) a claim against Defendant the Puerto Rico Department of Education ("DOE"), alleging violations Of Title IX, 20 U.S.C. §§ 1681 et seq. (2000 & Supp. 2006), (2) a claim against DOE alleging violations of Commonwealth law, and (3) a claim against Lilliam Maldonado, the principal of Shelsey's elementary school, and Angel Gabriel Morales-Sánchez, a custodian at Shelsey's elementary school, also alleging violations of Commonwealth law. Id. Plaintiffs

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1 seek the following relief: (1) an injunction ordering the DOE to take  
2 measures to adequately protect Shelsey from being sexually harassed  
3 by Morales-Sánchez, (2) \$200,000 as compensatory damages for the  
4 emotional pain and suffering inflicted upon Shelsey as a result of  
5 the alleged incident, (3) \$100,000 as compensatory damages for the  
6 pain and suffering inflicted upon Liz as a result of the alleged  
7 incident, and (4) reasonable attorneys' fees, expert witness fees,  
8 and other expenses.<sup>1</sup> Id.

9 Defendants now file a motion requesting that we reconsider our  
10 March 22, 2007, Opinion and Order insofar as it did not also dismiss  
11 the Commonwealth law claims Plaintiffs have pleaded against DOE.  
12 Docket Document No. 108. In our March 22, 2007, Opinion and Order,  
13 we held that Plaintiffs' Title IX action against DOE could proceed  
14 because Congress had waived States' - and therefore DOE's - sovereign  
15 immunity rights in the context of Title IX lawsuits. Docket Document  
16 No. 104. We overlooked Defendants' arguments with respect to DOE's  
17 sovereign immunity regarding Plaintiffs' Commonwealth claims,  
18 however. Id.

19 Defendants now remind us that sovereign immunity protects DOE  
20 from Plaintiffs' Commonwealth claims, too, and we agree. We may not  
21 exercise supplemental jurisdiction over these Commonwealth claims

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<sup>1</sup>Plaintiffs originally asked for other forms of relief as well, but we explained why some of it was not available in our March 22, 2007, Opinion and Order. Docket Document No. 104.

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1 against DOE without DOE's waiver. The Commonwealth claims should be  
2 brought against DOE in local court.

3 Another pending motion in this case is Plaintiffs' September 5,  
4 2006, Motion for Partial Summary Judgment on the question of DOE's  
5 Eleventh Amendment immunity. Docket Document Nos. 40, 41. We dismiss  
6 this motion as moot. Our March 22, 2007, Opinion and Order on  
7 Defendants' motion for judgment on the pleadings has already  
8 concluded that DOE is not immune from the instant Title IX lawsuit,  
9 Docket Document No. 104, and so Plaintiffs have already secured the  
10 relief they sought in the aforementioned summary judgment motion.  
11 Docket Document No. 104.

12 In accordance with the foregoing, we **GRANT** Defendants' motion  
13 that we reconsider our March 22, 2007, Opinion and Order, and dismiss  
14 the Commonwealth claims Plaintiffs have leveled against DOE, Docket  
15 Document No. 108, and we **DENY** Plaintiffs' motion for partial summary  
16 judgment as moot. Docket Document Nos. 40, 41

17 **IT IS SO ORDERED.**

18 San Juan, Puerto Rico, this 4<sup>th</sup> day of May, 2007.

19 S/José Antonio Fusté  
20 JOSE ANTONIO FUSTE  
21 Chief U.S. District Judge